

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

ROBERT MENENDEZ, *et al.*,

Defendants.

Criminal Action No. 23-490 (SHS)

Document electronically filed

**CERTIFICATION OF
LAWRENCE S. LUSTBERG IN SUPPORT
OF MR. HANA'S MOTION FOR A NEW
TRIAL**

I, **LAWRENCE S. LUSTBERG**, hereby certify as follows:

1. I am an attorney-at-law, admitted to the bars of the States of New York and New Jersey and admitted to practice in the United States District Court for the Southern District of New York, among other Courts. I am also a Director with Gibbons P.C., counsel for Defendant Wael Hana in the above-captioned matter.

2. I submit this Certification based upon my personal knowledge and review of the attached relevant documents in support of Mr. Hana's motion for a new trial addressed to evidence improperly provided to the jury.

3. Attached hereto as **Exhibit A** is a true and correct copy of an email from Rachel Wechsler to Christina LaBruno dated July 10, 2024.

4. Attached hereto as **Exhibit B** is a true and correct copy of an email from Rachel Wechsler to defence counsel for Senator Menendez, Mr. Hana, and Mr. Daibes dated July 10, 2024.

5. Attached hereto as **Exhibit C** is a true and correct copy of an email from Jessica Guarracino to Anne Collart and Christina LaBruno dated July 11, 2024.

6. Attached hereto as **Exhibit D** is a true and correct copy of an email from Connor Hammill to Anne Collart, Rachel Wechsler, Jessica Guarracino, and Christina LaBruno dated July 12, 2024.

7. Attached hereto as **Exhibit E** is a true and correct copy of an email from Rachel Wechsler to defence counsel for Senator Menendez, Mr. Hana, and Mr. Daibes dated July 12, 2024.

8. Attached hereto as **Exhibit F** is a true and correct copy of an email from Paul Monteleoni to defence counsel for Senator Menendez, Mr. Hana, and Mr. Daibes dated November 14, 2024.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: November 26, 2024
Newark, New Jersey

By: s/ Lawrence S. Lustberg
Lawrence S. Lustberg
GIBBONS P.C.
One Gateway Center
Newark, New Jersey 07102
(973) 596-4500
llustberg@gibbonslaw.com

Attorneys for Defendant Wael Hana

Exhibit A

LaBruno, Christina M.

From: Rachel Wechsler <noreply@box.com>
Sent: Wednesday, July 10, 2024 5:38 PM
To: clabruno.gibbonslaw.com@esfs.us
Subject: Rachel Wechsler has invited you to work together in "All Admitted GX" folder on Box

External Email: Use caution with links and attachments.



[Go to Folder](#)



Rachel Wechsler invited you to collaborate on:
[All Admitted GX](#)



[!All Admitted.zip](#)

[Go to Folder](#)

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Exhibit B

LaBruno, Christina M.

From: Wechsler, Rachel (USANYS) [Contractor] <Rachel.Wechsler@usdoj.gov>
Sent: Wednesday, July 10, 2024 5:39 PM
To: Adam Fee (adamfee@paulhastings.com); Avi Weitzman (aviweitzman@paulhastings.com); PH-MenendezTeam; Lustberg, Lawrence S; Collart, Anne M.; Solano Jr., Ricardo; LaBruno, Christina M.; Cesar de Castro; Seth Agata (sagata@cdecastrolaw.com); Shannon McManus; ktabares@cdecastrolaw.com
Cc: Monteleoni, Paul (USANYS); Richenthal, Daniel (USANYS); Mark, Eli (USANYS); Ghosh, Catherine (USANYS); Clark, Christina (NSD); Hamill, Connor (USANYS) [Contractor]; Florczyk, Braden (USANYS); Pomerantz, Lara (USANYS)
Subject: RE: United States v. Menendez, et al., S4 23 Cr. 490 (SHS) -- defense exhibit lists
Attachments: 2024.07.08 US v. Robert Menendez et al. Government Exhibit Index.xlsx

External Email: Use caution with links and attachments.

Counsel:

I've just uploaded to USAfx a full set of all the GX we have marked as admitted. You can see a full list of those in the attached index, on tab (2).

Let us know if this set reflects your internal versions so we can have it ready for the jurors' laptop on Thursday.

Thanks,
Rachel

From: Pomerantz, Lara (USANYS) <LPomerantz@usa.doj.gov>
Sent: Monday, July 8, 2024 6:17 PM
To: Adam Fee (adamfee@paulhastings.com) <adamfee@paulhastings.com>; Avi Weitzman (aviweitzman@paulhastings.com) <aviweitzman@paulhastings.com>; PH-MenendezTeam <PH-MenendezTeam@paulhastings.com>; Lustberg, Lawrence S <llustberg@gibbonslaw.com>; Collart, Anne M. <ACollart@gibbonslaw.com>; rsolano@gibbonslaw.com; LaBruno, Christina M. <CLaBruno@gibbonslaw.com>; Cesar de Castro <cdecastro@cdecastrolaw.com>; Seth Agata (sagata@cdecastrolaw.com) <sagata@cdecastrolaw.com>; Shannon McManus <smcmanus@cdecastrolaw.com>; ktabares@cdecastrolaw.com
Cc: Monteleoni, Paul (USANYS) <PMonteleoni@usa.doj.gov>; Richenthal, Daniel (USANYS) <DRichenthal@usa.doj.gov>; Mark, Eli (USANYS) <EMark@usa.doj.gov>; Ghosh, Catherine (USANYS) <cghosh@usa.doj.gov>; Clark, Christina (NSD) <Christina.Clark3@usdoj.gov>; Wechsler, Rachel (USANYS) [Contractor] <RWechsler@usa.doj.gov>; Hamill, Connor (USANYS) [Contractor] <CHamill@usa.doj.gov>; Florczyk, Braden (USANYS) <BFlorczyk@usa.doj.gov>
Subject: United States v. Menendez, et al., S4 23 Cr. 490 (SHS) -- defense exhibit lists

All,

Please send us your admitted defense exhibit lists, as we have been sending you with our exhibit productions. Please send these lists by tonight so that we have time to review in advance of your summations.

Thanks,
Lara

Lara Pomerantz
Assistant United States Attorney
United States Attorney's Office
Southern District of New York
Tel: (212) 637-2343

Exhibit C

LaBruno, Christina M.

From: Guarracino, Jessica L.
Sent: Friday, November 22, 2024 11:15 PM
To: LaBruno, Christina M.
Subject: FW: Exhibits
Attachments: Hana Exhibit Tracking.nrl; Addtl Admitted Hana Exs. 7.11.24.zip

JESSICA L. GUARRACINO | Associate
Business & Commercial Litigation Group
t: 973-596-4521 | c: 973-985-3203 | f: 973-639-8324
jguarracino@gibbonslaw.com | [bio](#)

Gibbons P.C. | One Gateway Center | Newark, NJ 07102-5310
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From: Guarracino, Jessica L.
Sent: Thursday, July 11, 2024 12:11 AM
To: Collart, Anne M. <ACollart@gibbonslaw.com>; LaBruno, Christina M. <clabruno@gibbonslaw.com>
Subject: RE: Exhibits

Annie,

Attached is the index of admitted exhibits with descriptions and the zip of missing exs. going to the Gov.

One note, I had to add redactions to Hana-C102-100-R to match the redactions in DX 1302 re: brain fluid. The redacted exhibit is in the zip and updated in the list.

Thanks!

JESSICA L. GUARRACINO | Associate
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From: Guarracino, Jessica L.
Sent: Wednesday, July 10, 2024 11:23 PM

To: Collart, Anne M. <ACollart@gibbonslaw.com>; LaBruno, Christina M. <clabruno@gibbonslaw.com>

Subject: RE: Exhibits

Hi Annie,

We're almost done with the descriptions of our exhibits. We will send you an email tonight with the missing exhibits going to the Government and the index with our descriptions.

We will likely need to recruit anyone else available to help in the morning to review the Government's admitted exhibit list for any errors.

Thanks!

JESSICA L. GUARRACINO | Associate
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From: Collart, Anne M. <ACollart@gibbonslaw.com>

Sent: Wednesday, July 10, 2024 11:20 PM

To: Guarracino, Jessica L. <JGuarracino@gibbonslaw.com>; LaBruno, Christina M. <CLaBruno@gibbonslaw.com>

Subject: Exhibits

How you guys holding up? I think Larry and Ricardo are both out now, so maybe we can touch base in the am on any questions?

ANNE M. COLLART | Director
White Collar & Investigations Group
t: [973-596-4737](tel:973-596-4737) | c: [973-715-1646](tel:973-715-1646) | f: [973-639-8389](tel:973-639-8389)
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Exhibit D

LaBruno, Christina M.

From: Hamill, Connor (USANYS) [Contractor] <Connor.Hamill@usdoj.gov>
Sent: Friday, July 12, 2024 9:12 AM
To: Collart, Anne M.; Wechsler, Rachel (USANYS) [Contractor]
Cc: Guarracino, Jessica L.; LaBruno, Christina M.
Subject: RE: U.S. v. Menendez - admitted exhibits list

External Email: Use caution with links and attachments.

Hi Anne,

I think you're right, we're removing from the index and drive for the jury.

Thanks!

-Connor

From: Collart, Anne M. <ACollart@gibbonslaw.com>
Sent: Thursday, July 11, 2024 11:57 PM
To: Wechsler, Rachel (USANYS) [Contractor] <RWechsler@usa.doj.gov>
Cc: Hamill, Connor (USANYS) [Contractor] <CHamill@usa.doj.gov>; Guarracino, Jessica L. <JGuarracino@gibbonslaw.com>; LaBruno, Christina M. <CLaBruno@gibbonslaw.com>
Subject: [EXTERNAL] U.S. v. Menendez - admitted exhibits list

Hi Rachel,

I know you were emailing with Jess and Christina earlier today on the exhibit lists – copying both of them and Connor, with whom I spoke about this briefly today as well. We have been going through to double check everything and are having a hard time locating one government exhibit. Do you have a cite for where 4I-4 was admitted? I just want to confirm that it was not included in the list in error.

Thank you,
Annie

ANNE M. COLLART | Director
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Exhibit E

LaBruno, Christina M.

From: LaBruno, Christina M.
Sent: Thursday, November 14, 2024 4:50 PM
To: Guarracino, Jessica L.
Subject: FW: Admitted Exhibits for the Jury
Attachments: Government Admitted Exhibit Index.pdf; Hana Defense Admitted Exhibit Index.pdf; Menendez Defense Admitted Exhibit Index.pdf

CHRISTINA M. LABRUNO | Associate
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From: Wechsler, Rachel (USANYS) [Contractor] <Rachel.Wechsler@usdoj.gov>
Sent: Friday, July 12, 2024 12:14 PM
To: Adam Fee (adamfee@paulhastings.com) <adamfee@paulhastings.com>; Avi Weitzman (aviweitzman@paulhastings.com) <aviweitzman@paulhastings.com>; PH-MenendezTeam <PH-MenendezTeam@paulhastings.com>; Lustberg, Lawrence S <LLustberg@gibbonslaw.com>; Collart, Anne M. <ACollart@gibbonslaw.com>; Solano Jr., Ricardo <RSolano@gibbonslaw.com>; LaBruno, Christina M. <CLaBruno@gibbonslaw.com>; Cesar de Castro <cdecastro@cdecastrolaw.com>; Seth Agata (sagata@cdecastrolaw.com) <sagata@cdecastrolaw.com>; Shannon McManus <smcmanus@cdecastrolaw.com>; ktabares@cdecastrolaw.com; Finkelstein, Henry S. <henryfinkelstein@paulhastings.com>
Cc: Monteleoni, Paul (USANYS) <Paul.Monteleoni@usdoj.gov>; Richenthal, Daniel (USANYS) <Daniel.Richenthal@usdoj.gov>; Mark, Eli (USANYS) <Eli.Mark@usdoj.gov>; Ghosh, Catherine (USANYS) <Catherine.Ghosh@usdoj.gov>; Clark, Christina (NSD) <Christina.Clark3@usdoj.gov>; Florczyk, Braden (USANYS) <Braden.Florczyk@usdoj.gov>; Pomerantz, Lara (USANYS) <Lara.Pomerantz@usdoj.gov>; Hamill, Connor (USANYS) [Contractor] <Connor.Hamill@usdoj.gov>
Subject: Admitted Exhibits for the Jury

External Email: Use caution with links and attachments.

Counsel:

Thank you for helping us finalize all the admitted exhibits. After meeting with Kimberly, Henry, and Christina (thanks!!!!), we have implemented the edits we discussed and loaded the jury's laptop with the finalized set. I'm attaching here the three indices that will accompany the exhibits on the laptop.

Please let me know if you notice any discrepancies in the attached and we'll be happy to address.

Thank you,
Rachel

Rachel Wechsler

Paralegal Specialist, Public Corruption
U.S. Attorney's Office | SDNY
1 Saint Andrew's Plaza
New York, NY 10007
Cell: (646) 899-0011
Office: (212) 637-2414

Exhibit F

LaBruno, Christina M.

From: Monteleoni, Paul (USANYS) <Paul.Monteleoni@usdoj.gov>
Sent: Thursday, November 14, 2024 4:23 PM
To: Weitzman, Avi; Fee, Adam J.
Cc: PH-MenendezTeam; Lustberg, Lawrence S; Solano Jr., Ricardo; Collart, Anne M.; LaBruno, Christina M.; Cesar de Castro; Seth Agata (sagata@cdecastrolaw.com); Shannon McManus (smcmanus@cdecastrolaw.com); Mark, Eli (USANYS); Richenthal, Daniel (USANYS); Pomerantz, Lara (USANYS); Ghosh, Catherine (USANYS); Clark, Christina (NSD)
Subject: RE: United States v. Menendez et al., S4 23 Cr. 490 (SHS)

External Email: Use caution with links and attachments.

As a courtesy, we can say that we first discovered that the incorrect versions of certain of the implicated exhibits were loaded onto the jury's laptop on October 31 during the course of preparing for the trial of Nadine Menendez. We then reviewed our files in order to ascertain what had happened and whether it may have affected other exhibits, and that process led to the identification of the other exhibits described in the letter. We have not identified any other exhibits on the jury laptop as containing extraneous material, and have no reason to think that that occurred given how, when, and why the not-fully-redacted versions were created and labeled, as described in detail in the letter we filed with the Court, and accordingly have not conducted a document-by-document review of each file in our copy of the set of exhibits loaded onto the jury laptop.

Regarding your question about the laptop, the data is no longer on the laptop itself; we have been working off of a copy of the final version of the set of exhibits loaded onto the jury laptop.

-----Original Message-----

From: Weitzman, Avi <aviweitzman@paulhastings.com>
Sent: Wednesday, November 13, 2024 3:30 PM
To: Fee, Adam J. <adamfee@paulhastings.com>
Cc: Monteleoni, Paul (USANYS) <PMonteleoni@usa.doj.gov>; PH-MenendezTeam <PH-MenendezTeam@paulhastings.com>; llustberg@gibbonslaw.com; Ricardo Solano Jr. - Gibbons P.C. (rsolano@gibbonslaw.com) <rsolano@gibbonslaw.com>; Collart, Anne M. (ACollart@gibbonslaw.com) <ACollart@gibbonslaw.com>; LaBruno, Christina M. <CLaBruno@gibbonslaw.com>; Cesar de Castro <cdecastro@cdecastrolaw.com>; Seth Agata (sagata@cdecastrolaw.com) <sagata@cdecastrolaw.com>; Shannon McManus (smcmanus@cdecastrolaw.com) <smcmanus@cdecastrolaw.com>; Mark, Eli (USANYS) <EMark@usa.doj.gov>; Richenthal, Daniel (USANYS) <DRichenthal@usa.doj.gov>; Pomerantz, Lara (USANYS) <LPomerantz@usa.doj.gov>; Ghosh, Catherine (USANYS) <cghosh@usa.doj.gov>; Clark, Christina (NSD) <Christina.Clark3@usdoj.gov>
Subject: [EXTERNAL] Re: United States v. Menendez et al., S4 23 Cr. 490 (SHS)

Paul - Thanks again for bringing this to our attention today minutes before your court filing.

Can you please advise us when the government discovered this error, how it came to the government's attention, and whether and how the government has confirmed that no other improper exhibits were erroneously provided to the jury? Please also advise if the government is in possession of the laptop that was provided to the jury.

Thanks,
Avi

Avi Weitzman
Co-Chair, Complex Litigation & Arbitration Practice Group Paul Hastings LLP
(w) (212) 318-6920
(c) (917) 670-5267

On Nov 13, 2024, at 1:50 PM, Fee, Adam J. <adamfee@paulhastings.com> wrote:

Thanks for letting us know Paul.

Can you please send us copies of the versions that were provided to the jury, and tell us where they were incorrectly redacted?

From: Monteleoni, Paul (USANYS) <Paul.Monteleoni@usdoj.gov>
Sent: Wednesday, November 13, 2024 10:47 AM
To: Fee, Adam J. <adamfee@paulhastings.com>; Weitzman, Avi <aviweitzman@paulhastings.com>; PH-MenendezTeam <PH-MenendezTeam@paulhastings.com>; Ilustberg@gibbonslaw.com; Ricardo Solano Jr. - Gibbons P.C. <rsolano@gibbonslaw.com> <rsolano@gibbonslaw.com>; Collart, Anne M. <ACollart@gibbonslaw.com> <ACollart@gibbonslaw.com>; LaBruno, Christina M. <CLaBruno@gibbonslaw.com>; Cesar de Castro <cdecastro@cdecastrolaw.com>; Seth Agata <sagata@cdecastrolaw.com> <sagata@cdecastrolaw.com>; Shannon McManus <smcmanus@cdecastrolaw.com> <smcmanus@cdecastrolaw.com>
Cc: Mark, Eli (USANYS) <Eli.Mark@usdoj.gov>; Richenthal, Daniel (USANYS) <Daniel.Richenthal@usdoj.gov>; Pomerantz, Lara (USANYS) <Lara.Pomerantz@usdoj.gov>; Ghosh, Catherine (USANYS) <Catherine.Ghosh@usdoj.gov>; Clark, Christina (NSD) <Christina.Clark3@usdoj.gov>
Subject: [EXT] United States v. Menendez et al., S4 23 Cr. 490 (SHS)

Counsel: We wanted to notify you regarding an error we recently discovered in the laptop the parties jointly provided to the jury for its deliberations. We recently learned that incorrect versions of certain Government Exhibits were inadvertently

Counsel:

We wanted to notify you regarding an error we recently discovered in the laptop the parties jointly provided to the jury for its deliberations. We recently learned that incorrect versions of certain Government Exhibits were inadvertently loaded on the jury's laptop. Specifically, incorrect versions of Government Exhibits A103-10, A120, B207-1, C207-8, C207-8T, C207-9, C207-9T, C602, and D207-3 that did not contain all of the redactions ordered by the Court were loaded on the jury's laptop. The incorrect versions of the exhibits were never displayed to the jury in any form. And the version of the chart summarizing these exhibits (GX 1302) on the jury laptop summarized the correct versions of the exhibits.

Although we don't believe any action is necessary, we also will be informing the Court of this discovery, including more detail, shortly.

Paul M. Monteleoni
Senior Trial Counsel
U.S. Attorney's Office
Southern District of New York
26 Federal Plaza, 37th Floor
New York, NY 10278
212-637-2219

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